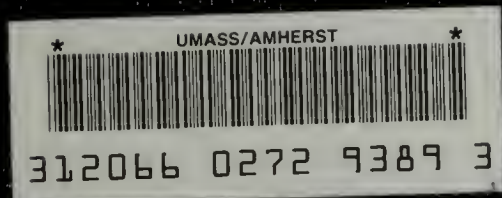


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INFORMATION

on

1976

LEGISLATION

affecting

CIVIL SERVICE

Prepared by

THE

MASSACHUSETTS

DIVISION OF

PERSONNEL

ADMINISTRATION



The Commonwealth of Massachusetts

Division of Personnel Administration

One Ashburton Place, Boston, Ma. 02108

July 13, 1977

TO APPOINTING AUTHORITIES

Your attention is invited to the following legislation enacted in 1976 affecting the Civil Service Law and Rules

PROVIDING AN INCREASE IN THE PROBATIONARY PERIOD FOR CERTAIN POLICE OFFICERS

Chapter 62 of the Acts of 1976 amends Section 20D, Chapter 31, of the Civil Service law to provide that in the case of a person appointed as a regular Police Officer in any city or town, the Metropolitan District Police force or the Massachusetts Bay Transportation Authority Police force or as a Capitol Police Officer, the probationary period shall be twelve months (formerly it was nine months). This Act applies to persons appointed after the effective date of the Act. The effective date of this Act is July 7, 1976.

ESTABLISHING THE ANNIVERSARY OF THE DEATH OF GENERAL MARQUIS DELAFALETTE AS A LEGAL HOLIDAY

Chapter 112 of the Acts of 1976, amends clause eighteen of Section 7 of Chapter 4 of the General Laws to include in the definition of "Legal Holiday" May twentieth (anniversary of the death of General Marquis DeLafayett). NOTE: Section 2 of this Act also amends General Laws, Chapter 136, Section 12, so that Public Officers will not be required by that Section to be closed on May twentieth. However, Section 24A, of Chapter 30 of the General Laws provides that if a person employed by the Commonwealth is required to work on any Legal Holiday, he shall be given an additional day off, or be entitled to an additional day's pay. The effective date of this Act is August 8, 1976.

EXEMPTING SEASONAL POSITIONS FROM CLASSIFIED CIVIL SERVICE

Chapter 138 of the Acts of 1976, amends Section 1, of the Civil Service Law to define "Seasonal Position" and amends Section 5 of the Law to exempt seasonal positions from Civil Service and provides that nothing in Chapter 138 shall be deemed to impair the Civil Service status in any seasonal position of any person who holds employment therein on a permanent basis on effective date of Chapter 138. The effective date of this Act is May 28, 1976.

FURTHER DEFINING THE TERM "VIETNAM VETERAN"

Chapter 156 of the Acts of 1976 amends the General Laws, Chapter 4, Section 7 Clause 43(D) definition of Vietnam Veteran. Under the new definition no person may be deemed to be a Vietnam Veteran under Clause 1 of the definition unless he performed wartime service during the period August 5, 1964 to May 7, 1975 (formerly the period was August 5, 1964 to "a date to be determined by Presidential Proclamation and concurrent resolution of the Congress of the United States"). The effective date of this Act is September 2, 1976.

VETERANS PREFERENCE LAW

On June 24, 1976 Chapter 200 of the Acts of 1976 became effective which in essence reinstitutes a system of Veteran's Preference on Massachusetts Civil Service examinations pending a decision of the United States Supreme Court and providing for the establishment of a point system of preference during such suspension. Chapter 200 of the Acts of 1976, provides for the following:

1. The new statute will apply only to Open Examinations and will not apply to Promotional Examinations.
2. The award of ten points to disabled veterans and 5 points to veterans will be awarded only to those individuals who first achieve a passing score on a Civil Service Examination.
3. For purposes of implementation, the Division will use the Entry Level Pay of Job Group 17 in order to determine whether or not the absolute Disabled Veterans Preference applies in a particular situation.
4. The new Veteran's Preference Statute will be applied to any and all eligible lists that are presently in existence, and also will apply to any and all eligible lists that are established on or after June 24, 1976.

With respect to certifications that were in existence at the time the Governor signed the new law, the Division should approve any appointments that were made prior to 10:00 A.M. on June 24, 1976, without regard to Veterans Preference. Any appointments that were made after that time cannot be approved without compliance with the new Veteran's Preference Statute, Chapter 200 of the Acts of 1976.

EXEMPTING SHELLFISH CONSTABLES FROM THE PROVISIONS OF CIVIL SERVICE LAW

Chapter 231 of the Acts of 1976, amends Section 5 of the Civil Service Law to exempt from Civil Service the positions of Shellfish Constables or Deputy Shellfish Constables. The effective date of this Act is October 4, 1976.

COMPENSATION OF SUPERVISORS IN THE MASSACHUSETTS COMMISSION FOR THE BLIND

Chapter 243 of the Acts of 1976, amends Section 130 of Chapter 6 of the General Laws, to provide that the compensation of Supervisors in the Massachusetts Commission for the Blind shall be determined by the Personnel Administrator, (formerly the Commissioner of the Blind had this authority, but he never exercised it, and compensation was set up by the Director of Personnel and Standardization under classification and pay plans described in General Laws, Chapter 30). Chapter 243 became effective July 1, 1976.

AUTHORIZING THE BOARD OF DIRECTORS OF THE M.B.T.A. TO DESIGNATE ONE OR MORE MEMBERS OF SAID BOARD TO HEAR CERTAIN MATTERS RELATING TO EMPLOYMENT AND COMPENSATION OF POLICE OFFICERS

Chapter 251 of the Acts of 1976 authorized the Board of Directors of the M.B.T.A. to designate one or more of its members to act in behalf of the Board for the purpose of giving any M.B.T.A. Police Officer a hearing under Section 43 of the Civil Service Law in a matter affecting such Officers employment or compensation. Chapter 251 will become effective August 15, 1976.

AN ACT RELATIVE TO MOTOR VEHICLE INSURANCE WHICH AMENDS A CONSIDERABLE NUMBER OF GENERAL LAWS PROVISIONS AND ESTABLISHES A MERIT RATING SYSTEM FOR MASSACHUSETTS DRIVERS.

Chapter 266 of the Acts of 1976, an Act relative to Motor Vehicle Insurance, amends a considerable number of General Laws, provisions, and establishes a merit rating system for Massachusetts

drivers.

Chapter 266 being declared an emergency law by the Governor, took effect August 4, 1976. NOTE: Provisions of General Laws, Chapter 6, Section 183, as inserted by Section 1 of Chapter 266 providing that the Director appointed by the Motor Vehicle Insurance Merit Rating Board shall not be subject to the provisions of Chapter 31. (Civil Service Law).

AN ACT EXTENDING THE ELIGIBLE LIST FOR MOTOR VEHICLE INVESTIGATOR

Chapter 293 of the Acts of 1976, reactivates the eligible list for Motor Vehicle Investigator in the Registry of Motor Vehicles which was established on March 8, 1974 (and expired on March 8, 1976), and extends the life of the revived list until December 31, 1976. The effective date of this Act is November 15, 1976.

REQUIRING THAT PERSONS APPOINTED AS SUPERVISORS OF ATTENDANCE SHALL HAVE AT LEAST REACHED THE AGE OF TWENTY-ONE.

Chapter 320 of the Acts of 1976 amends Section 19 of Chapter 78 of the General Laws, which provides for the appointment and establishment of qualifications for Supervisors of Attendance, by inserting a provision on Section 19 stating that such supervisors shall have attained the age of twenty-one years.

This minimum age qualification now established by statute will be interpreted by this Division as superceding the Civil Service Rule 6 requirement that an applicant for Supervisor of Attendance in the service of any city shall have reached his thirtieth birthday on the date of examination. If a person has attained the age of twenty-one at the time of appointment he will be deemed to have met all minimum age requirements for the position. The effective date of this Act is August 27, 1976.

EXTENDING CERTAIN ELIGIBLE LISTS FOR PERMANENT POSITIONS IN THE DEPARTMENT OF PUBLIC WORKS.

Chapter 337 of the Acts of 1976 revives the following described eligible lists for positions in the State Department of Public Works and extends such lists until new eligible lists for the positions are established:

1. Highway and Structures Engineer list, established July 20, 1973.
2. Highway Engineers List established July 27, 1973.
3. Supervising Civil Engineer List, established September 21, 1973.

4. Associate Civil Engineer list, established September 18, 1973.

The effective date of Chapter 377 is September 7, 1976.

PROVIDING THAT FOR A TEMPORARY PERIOD OF TIME THE CIVIL SERVICE
LAW AND CERTAIN PROVISIONS OF LAW RELATIVE TO TENURE SHALL NOT APPLY
TO PERSONS APPOINTED OR EMPLOYED BY CRIME CONTROL DEMONSTRATION PROJECTS.

Chapter 372, An Act providing that for a temporary period of time the Civil Service Law and certain provisions of Law relative to tenure shall not apply to persons appointed or employed by crime control demonstration projects. Provides that persons employed by a crime control demonstration project, established by Federal or State law enforcement grants to municipal corporations may be assigned for demonstration purposes, with the consent of the Department Heads concerned, to municipal department. No such assignment shall be made to a Police or Fire Department to perform the regular functions of a Police Officer or Firefighter without the approval of the Civil Service Commission. General Laws, Chapter 30, Section 9A, Chapter 31, shall not apply to persons so employed.

Chapter 372 may not be deemed to abrogate, impair, set aside or waive the provisions of any Collective Bargaining agreements in force and effect between any city or town and an employer organization. Chapter 372, also provides that any employee of a crime control project assigned to a Police or Fire Department prior to August 1, 1970, may continue to be so assigned without interruption of his services.

Provisions of Chapter 372 take effect on July 1, 1976, and shall become inoperative on July 1, 1982.

AN ACT RELATIVE TO OBTAINING COPIES OF PUBLIC RECORDS

Chapter 438, An Act relative to obtaining copies of Public Records amends paragraph (b), Section 10, Chapter 66, General Laws, to provide that a custodian of a public record shall, within TEN days (twenty days prior to this amendment) following receipt of a request for inspection or copy of a public record, comply with such request. It strikes out the existing provisions of Section 10 that where the request is made by first class mail it must be registered, return receipt requested, and includes additional measures which may be taken if the custodian of the Public Record fails to allow inspection or provide a copy of the record. Chapter 438 will take effect January 7, 1977.

AN ACT PROVIDING FOR HEARING OFFICERS IN CERTAIN CIVIL SERVICE HEARINGS.

Chapter 446, an Act providing for hearing officers in certain civil service hearings, amends paragraph (a), Section 43, of the Civil Service law to provide that a hearing required to be given under that paragraph may be either before the appointing authority (as now)

OR A HEARING OFFICER DESIGNATED BY SAID APPOINTING AUTHORITY, and to provide that where the hearing is conducted before a hearing officer his findings shall be reported forthwith to the appointing officer for action, in which case the appointing authority shall, within seven days after the filing of the report, give the employee affected a written notice of his decision. NOTE that where the hearing is conducted by the appointing authority, the provisions of paragraph (a) remain unchanged. Chapter 446 was declared an emergency law by the Governor and became effective October 26, 1976, upon the statement of the declaration of the Governor being filed with the State Secretary.

AN ACT PROHIBITING THE HIRING OF CERTAIN ALIENS

Chapter 452, An Act prohibiting the hiring of certain aliens, amends General Laws, Chapter 149, to add a new section, Section 19C. Under Section 19C, it will be a punishable offense for any employer knowingly to employ any alien in the Commonwealth, who is a student or visitor or who has not been admitted to the United States for permanent residence, except those admitted under a work permit, unless such employment is authorized by the Attorney General of the United States. Chapter 452 became effective January 18, 1977.

AN ACT PROVIDING FOR A MASSACHUSETTS REGISTER AND A CODE OF MASSACHUSETTS REGULATIONS

Chapter 459, An Act providing for a Massachusetts Register and a Code of Massachusetts Regulations, amends Chapter 30A of the General Laws, providing detailed directives of the method to be followed. by agencies subject to Chapter 30A in the adoption and promulgation or regulations and rules which the agencies have the power to make, and providing for the filing of such rules and regulations with the State Secretary and his printing and publishing them in a serial publication (Massachusetts Register), also for the compilation and publication of rules and regulations effective prior to the first issue of the Massachusetts Register in a "Code of Massachusetts Regulations." Chapter 459 also amends Chapter 30 by striking out Section 37 and inserting a new Section 37 in place thereof. Section 37 is now to read:

"Every agency as defined in Section one of Chapter thirty A vested by law with the power to make and issue rules and regulations shall comply with the filing provisions of Section five of said Chapter."

Under the Section 37 which Chapter 459 strikes out, the rules and regulations made by the Personnel Administrator and the Civil Service Commission (as well as by other State Agencies) were required to be filed with the State Secretary before they could take effect. The newly-inserted Section 37 does not require that the rules and regulations made by the Administrator or the Commission be filed with the State Secretary inasmuch as neither the Administrator nor the Commission comes within the definition of agency set forth in Section 1 of Chapter 30A. Chapter 459 became effective June 20, 1977.

AN ACT FURTHER REGULATING THE COMPOSITION OF MEMBERS OF THE MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION.

Chapter 463, An Act further regulating the composition of membership of the Massachusetts Commission Against Discrimination, reorganized the Commission, provided for an advisory board to the Commission, describing its membership, described the composition of local or regional advisory boards, etc.

Chapter 463, amended Section 56 of Chapter 6 of the General Laws, striking out certain paragraphs and inserting other paragraphs in their places. Struck from Section 56 was the fourth paragraph which reads:

"All employees of the Commission, except an Executive Director, Executive Secretary, the Heads and Deputy Heads, of Divisions, Attorney's, Field Representatives, and such other positions as the Commission may from time to time designate, shall be subject to Chapter 31 and the rules and regulations made thereunder."

(Underlined words indicate the additional positions in the Commission which have been exempted or may be exempted from the Civil Service Law by virtue of Chapter 463).

Section 3 of Chapter 151B of the General Laws is amended by Section 2 of Chapter 463 to describe how local or regional advisory boards to the Commission shall be made up. The amendment states that where reasonably possible the members of a board shall include certain described classes of persons, including "a local personnel or Civil Service administrator."

Chapter 463 includes a provisions that the newly-inserted fourth paragraph of Section 56 of Chapter 6 shall not affect the Civil Service status or tenure of any person employed by the Commission as such status or tenure existed on the effective date of Chapter 463.

AN ACT EXEMPTING INDUSTRIAL RELATIONS ADJUSTERS WITHIN THE BOARD OF CONCILIATION AND ARBITRATION FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.

Chapter 492, An Act exempting Industrial Relations Adjusters within the Board of Conciliation and Arbitration from the provisions of the Civil Service Law, was declared by the Governor to be an emergency law and took effect October 27, 1976.

Chapter 492, amends Section 5 of the Civil Service Law to include among the persons to the selection and appointment of whom no rule made by the Civil Service Commission shall apply, the following class: Industrial Relations Adjusters within the Board of Conciliation and Arbitration in the Department of Labor and Industries.

Chapter 492 also includes a provision that Section 5 of the Civil Service Law, as amended by Chapter 492, shall not impair the Civil Service status of any person holding employment on a permanent basis on the effective date of the Act. Presumably the intent of the Legislature in including this provision was to protect the Civil Service status of any person holding employment in a permanent basis as an Industrial Relations Adjuster in the Board of Conciliation and Arbitration agency on the effective date of this Act.

AN ACT REDEFINING THE TERM "EXECUTIVE OFFICE PROMOTIONAL EXAMINATION IN THE CIVIL SERVICE LAW."

Chapter 532, An Act defining the term "Executive Office Promotional Examination" in the Civil Service Law amends the definition of the term as set out in Section 1 of the Law so that the definition will read: (underscored portion added by Chapter 532).

"Executive Office Promotional Examination", a competitive examination within an executive office established under the provisions of Chapter 6A, Chapter 7 of Chapter 19A for promotion within said office to be conducted as provided in Section 15."

The intent of the Legislature is to provide for Executive Office Promotional Examinations within the Executive Office for Administration and Finance (established under Chapter 7 of the General Laws) and also within the Department of Elder Affairs (although the latter is not established as an "Executive Office" by Chapter 19A). Chapter 532 became effective January 25, 1977.

AN ACT CLARIFYING THE LAW GOVERNING THE APPOINTMENT OF CERTAIN
POSITIONS IN THE SERVICE OF THE DEPARTMENT OF MENTAL HEALTH.

Chapter 546, An Act clarifying the law governing the appointment of certain positions in the service of the Department of Mental Health, took effect January 25, 1977.

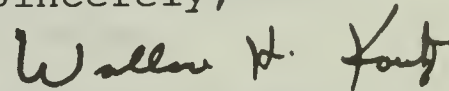
Chapter 546 amends Section 42 of Chapter 31 of the Civil Service Law, which is the section which now provides that appointments to certain positions in the Institutional service of the Commonwealth may be made, at the discretion of the appointing authority, either in accordance with the provisions of said law or as appointments exempt from such Law, to set out in Section 42 an additional position, that of Regional Business Manager. It further amends Section 42 by striking out the restrictive adjective INSTITUTIONAL so that appointments to the positions listed in Section 42 which are in the service of the Commonwealth, whether or not they are in institutions, may in the discretion of the appointing authority be made under Civil Service or as appointments exempt from Civil Service.

Without specifically referring to positions in the Department of Mental Health, Chapter 546, affect the appointment of REGIONAL BUSINESS MANAGERS in that Department, where the regional business managers are not actually in the "institutional" service of the Commonwealth.

Requests for copies of the Acts referred to herein should be directed to the Secretary of the Commonwealth, State Book Store, Room 116, State House, Boston, Massachusetts 02133. See Appendix A for a listing of the various chapters summarized in the document.

If you need extra copies of this document, please notify me forthwith. A limited number of extra copies were made. These will be held for a reasonable time for such requests for additional copies and then released for general distribution to the public.

Sincerely,



Wallace H. Kountze
Personnel Administrator

Civil Service Commission
Amelia L. Miclette, Chairman
Wayne A. Budd
John F. Donegan
Mary M. Sullivan
Richard H. Linden

APPENDIX A

Acts of 1976 - Chapters Affecting the Civil Service Law

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